

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ECF Case

VIVIAN AND LEONARD JUDELSON, as
Trustees of the VIVIAN JUDELSON
REVOCABLE TRUST DATED 10/9/95,
and VIVIAN S. JUDELSON CONTRIBUTORY
IRA, Individually and On Behalf of All Others
Similarly Situated,

Civil Action No. 07-7972

Plaintiffs,

vs.

TARRAGON CORPORATION, WILLIAM S.
FRIEDMAN, ROBERT P. ROTHENBERG
and ERIN D. PICKENS,

Defendants.

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[additional captions on page following cover sheet]

**MEMORANDUM OF PLAINTIFF PAUL BERGER IN FURTHER
SUPPORT OF HIS APPOINTMENT AS LEAD PLAINTIFF**

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Proposed Lead Counsel for Plaintiffs

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HENRY NELSON, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

Civil Action No. 07-08438

vs.

TARRAGON CORPORATION, WILLIAM S.
FRIEDMAN, ROBERT P. ROTHENBERG
and ERIN DAVIS PICKENS,

Defendants.

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PAUL BERGER, Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

Civil Action No. 07-8689

vs.

TARRAGON CORPORATION, WILLIAM S.
FRIEDMAN, ROBERT P. ROTHENBERG
and ERIN D. PICKENS,

Defendants.

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Plaintiff Paul Berger respectfully submits this memorandum of in further support of his motion to serve as lead plaintiff in these actions and approval of Abraham, Fruchter & Twersky, LLP, as lead counsel in this action.

ARGUMENT

In addition to the motion for appointment as lead plaintiff filed by Paul Berger, three other movants filed motions for lead plaintiff: a group consisting of Vivian and Leonard Judelson and Reginald Barnett referred to as the “Judelson Group”; a group consisting of Kurt A. Prescott, Leslie R. Bowers, Dale R. Jesse and the Seaside Resources Retirement Trust who refer to themselves as the “Tarragon Investor Group,” and Pascual Rodriguez. None of these other movants have filed a brief opposing Mr. Berger’s application within the time allowed by the Federal Rules of Civil Procedure and the Local Rules of this Court. Mr. Berger’s counsel has also confirmed with counsel for each of these other movants that their clients do not oppose the appointment of Mr. Berger as lead plaintiff in this action.

Faced with no opposition, Paul Berger is concededly the “person or group of persons” with the “largest financial interest in the relief sought by the class” who otherwise satisfies the requirements of Fed. R. Civ. P. 23 and should be appointed lead plaintiff, accordingly. *See* 15 U.S.C. §78u-4(a)(3)(B). As such, Mr. Berger’s arguments in opposition to the other competing movants are now moot, and do not require a ruling or consideration by the Court in order to resolve the underlying motions.

Furthermore, and notwithstanding that the issues are now moot, Mr. Berger and his counsel hereby withdraw any arguments in opposition to the Tarragon Investor Group and its chosen counsel. Accordingly, the decision by the Tarragon Investor Group not to oppose Mr.

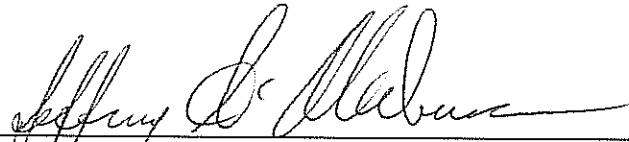
Berger is in no way indicative of acquiescence to the arguments proffered by Mr. Berger in opposition to their motion.

CONCLUSION

Therefore, this Court should issue an Order: (i) consolidating the above-captioned actions pursuant to Fed. R. Civ. P. 42(a); (ii) appointing Paul Berger as lead plaintiff in this action pursuant to Section 21D of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4; and (iii) approving Mr. Berger's selection of Abraham, Fruchter & Twersky, LLP as lead counsel.¹

Dated: December 4, 2007

ABRAHAM, FRUCHTER & TWERSKY, LLP



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Counsel for Proposed Lead Plaintiff Paul Berger

¹ A proposed Order is being submitted to the Court.